

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Michael McKoy, #299320,)
Plaintiff,) C.A. No. 7:07-1495-HMH-WMC
vs.)
Nathaniel Waddell (Individually),)
Oreda Waddell (Individually), North)
Metro Properties, and Corey Heins,)
Defendants.)

OPINION & ORDER

This matter is before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ In the Report and Recommendation, Magistrate Judge Catoe recommends denying Michael McKoy's ("McKoy") motion for default judgment against Nathaniel Waddell. However, after a review of the complaint, it is apparent to the court that there is no federal subject matter jurisdiction in this case. "A complaint must state on its face the grounds for a federal court's jurisdiction, irrespective of whether it is a case of diversity jurisdiction, federal question jurisdiction or both." Martin Sales & Processing, Inc. v. West Virginia Dep't of Energy, 815 F. Supp. 940, 944 (S.D. W. Va. 1993). It is apparent from the face of the complaint that the jurisdictional amount of 28 U.S.C.

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (2006).

§ 1332 is not met and that McKoy's action does not "arise[] under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Therefore, the court declines to adopt the Report and Recommendation, and this action is dismissed.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
December 18, 2007

NOTICE OF RIGHT TO APPEAL

The Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.